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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,632	11/21/2003	Victor Verbinski	SAIC0055-CCIP2	9218
27510	7590	06/15/2006		
KILPATRICK STOCKTON LLP 607 14TH STREET, N.W. WASHINGTON, DC 20005			EXAMINER GAGLIARDI, ALBERT J	
			ART UNIT 2884	PAPER NUMBER

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,632

Applicant(s)

VERBINSKI ET AL.

Examiner

Albert J. Gagliardi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 24-39 is/are pending in the application.
- 4a) Of the above claim(s) 24-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Comment on Submissions

1. This Office Action is responsive to the Amendment and Remarks filed on 30 May 2006.

Election/Restrictions

2. Newly submitted claims 24-39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

New independent claims 24 and 32 are directed to unique species of a target object inspections system including specific arrangements of the source deployment boom and/or mobile platform.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 24-39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. The newly recited species would require a different search than the original claims in that new searches related to source booms/mobile platforms would be required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Bermbach et al.* (US 5,065,418) in view of *Adams et al.* (US 2004,0086078 A1).

Regarding claim 1, *Bermbach* discloses (Figs. 1-2) a target object inspection system comprising: a first detector (13) for detecting radiation from a radiation source (8); a mobile platform (1) including the first detector (13) and the radiation source (8); and a boom (9) connected to the radiation source (8) and the mobile platform (1), wherein the boom is deployed so as to effect passage of the target object between the radiation source and the first detector (see generally fig. 2).

Regarding the use of a second detector for detecting radiation from the target object, the examiner notes that passive detection of radiation emitted from target objects is well known. In addition, *Adams* discloses an arrangement comprising both active target inspection including a radiation source and passive sensing of radioactive or fissile materials (§§ 0002-0004) wherein the passive sensing may be performed by a second detector (§ 0007). *Adams* teaches (as is also well known) that such a combination is advantageous (§ 0004). Therefore it would have been obvious to a person of ordinary skill in the art to modify the invention suggested by *Bermbach* to further include a second detector for detecting radiation from the target object so as to allow for a more advantageous combination system as suggested by *Adams*.

Regarding claim 2, *Bermbach* discloses that the first detector is photon (i.e., x-ray) detector.

Regarding claim 3, in the system suggested by *Bermbach* in view of *Adams*, *Adams* discloses that the second detector is a neutron detector (§ 0007).

Regarding claim 4, *Bermbach* discloses that the first detector (13) detects radiation from the radiation source (8) after the radiation passes through the target object (5) (see generally Fig. 2).

Regarding claim 5, although *Bermbach* specifically identifies the source is an x-ray source, those skilled in the art appreciate that x-ray sources and gamma source are well known as functionally equivalent sources for purpose of generating high energy photons for inspection purposes, and absent some degree of criticality, the substitution of a gamma source for an x-ray source is considered a matter of routine design choice depending on the needs of the application.

Regarding claim 6, although not specifically disclosed, those skilled in the art appreciate that helium based neutron detectors are well known and, absent some degree of criticality, would have been a matter of routine design choice.

Regarding claim 8, in the system suggested by *Bermbach* in view of *Adams*, *Adams* discloses that the detection of neutrons can result in an alert (§ 0027). The use of an indicator to signal the presence of an alert would have been an obvious, if not inherent design choice.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Bermbach* and *Adams* as applied above, and further in view of Kubierschky (US 4,893,015).

Regarding claim 7, *Bermbach* discloses that the system includes a system for processing signals collected from the detector and calculating an image in known manner (col. 3, lines 36-46) and a display (27) responsive to the collected signals and generating a display (col. 3, lines

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46-55). Regarding the processing of signals including a counter for discretely counting photons, *Kubierschky* discloses that typical methods for detecting and measuring radiation can include a discrete photon counting mode (col. 1, lines 39-42). Therefore, absent some degree of criticality, it would have been obvious to a person of ordinary skill in the art to specify that the system includes a counter for discretely counting the photons so as to allow for the processing of signals from the radiation detectors in a known manner.

Response to Arguments

8. Applicant's arguments filed 30 May 2006 have been fully considered but they are not persuasive.

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the specific configuration of the source boom and/or the mobile platform relative to the detectors and the object being inspected) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The examiner also notes that, despite applicant's argument to the contrary, the specification does not explicitly define a boom in the manner stated. It is noted that while applicant's proffered definition of the source boom may be compatible with at least one embodiment as shown in the drawings, such compatibility is not the same thing as a clear definition (See MPEP 2111). As such, the examiner's interpretation, not being inconsistent with the specification as a whole, and there being no express definition to the contrary, the rejection is maintained.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert J. Gagliardi whose telephone number is (571) 272-2436. The examiner can normally be reached on Monday thru Friday from 10 AM to 6 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Albert J. Gagliardi
Primary Examiner
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AJG